

of his (the plaintiff's) share in the succession of their late father ;

" Doth for the foregoing causes and considerations cancel, annul and set aside the deed of *donation gratuite* from John Taylor, acting as agent and in the name of the plaintiff, to the defendant, passed on the 9th day of July, 1880, before Kittson, notary ; and it is ordered that the said defendant do within 15 days from this date, *payer*, discharge and cancel the registration of said deed of donation, and on his default of so doing the present judgment shall effect the discharge and cancellation of said registration."

Judgment reversed.

N. Driscoll, for plaintiff.

T. W. Ritchie, Q.C., for defendant.

COURT OF QUEEN'S BENCH.

[In Chambers.]

MONTREAL, October, 1882.

Before RAMSAY, J.

Ex parte DELPHINE CHERRIER, Petitioner for a Writ of *Habeas Corpus*.

Recorder's Court, Jurisdiction of—Police Limits
—32-33 Vic., c. 32, s. 15.

The Recorder's Court of the City of Montreal, has jurisdiction over charges of keeping houses of ill-fame within the said City.

The "police limits" of the City of Montreal, mean the territory over which the Corporation has a police jurisdiction, and are co-extensive with the Corporation.

RAMSAY, J. The prisoner was convicted " *devant la Cour du Recorder de la cité de Montréal, d'avoir le 11ème jour d'août (alors) courant, en la dite cité, illégalement tenu une maison mal-tamée, dans la dite cité, savoir :*" etc.

Two objections are taken to the commitment.

It is contended that the Recorder's Court has not jurisdiction over the said offence, and that if it has, it has only jurisdiction by consent of the accused, and that it does not appear that the consent was obtained.

The conviction is under sections 2 and 17 of the 32 & 33 Vic., cap. 32. The trial is to be had before a "competent magistrate," and a competent magistrate is defined by section 1 to be amongst others, any Recorder being a Justice of the Peace, and acting within the local limits of his jurisdiction. It is argued that this gives the power to the Recorder, but not to

his Court. When the Recorder sits as Recorder, he constitutes the Recorder's Court. This would be plain from general reasoning, but it is specially recognized by section 20, C. S. L. C. cap. 102, and so also when some one enabled to act for him, holds the Court. And this is provided for by the act 32 & 33 Vic., which goes on to say : "or other functionary or tribunal invested," etc., with the powers vested in a Recorder by chap. 105, C. Sts. of Canada. When we go to chap. 105, we find this identical offence provided for.

The second objection turns on the 15th section of the 32 & 33 Vic., cap. 32. It is argued that the jurisdiction of the magistrate trying this offence is only absolute within the police limits of a city ; and that in this case no consent appears to have been given, and it does not appear that the accused was charged within the police limits with therein keeping, etc. I cannot take this view. The "police limits" of the city of Montreal evidently mean, the territory over which the Corporation has a police jurisdiction, and it is co-extensive with the Corporation.

The Petition must therefore be refused.

Petition rejected.

MOTION FOR SECURITY OF COSTS.

To the Editor of the Legal News:

DEAR SIR,—In the report of the cases of *Marcotte v. Descoteau* and *Giles v. O'Hara*, in your last number, there is an apparent contradiction in the holdings of the learned Judge on a similar point. As I was in Court and heard his Honor's remarks at the argument, I feel bound to communicate them in defence of the consistency of our judges, inasmuch as they clearly explained the apparent contradiction. His Honor said that his own private opinion, which he had previously expressed, was that the motion for security was within the delays if served before the expiration of the four days, but that the current of jurisprudence, of late especially, was against that view, and he felt bound to concur with the holding of the majority of the judges.

This decision, as tending to a uniformity of jurisprudence, seems to me more worthy of applause than censure.

20th October, 1882.

A.

[The explanation is perfectly satisfactory